

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MARY A. FROEHLICH,	)	
	)	
Plaintiff,	)	C.A. No. 05-564 (SLR)
	)	
v.	)	
	)	
VERIZON, INC., a Delaware	)	
corporation, and MUTUAL OF OMAHA,	)	
a foreign insurance company,	)	
	)	
Defendants.	)	

**PLAINTIFF'S RESPONSE TO  
COURT'S ORDER TO SHOW CAUSE**

Mary A. Froehlich ("plaintiff") hereby responds to the order to show cause issued by the Court on November 16, 2005.

1. This case was originally filed in the Court of Chancery on July 1, 2005 alleging state law causes of action against the defendants. On August 8, 2005, defendant Verizon, with the consent of defendant Mutual of Omaha, removed the suit to this Court alleging that the state law claims set forth in the suit are pre-empted by the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §1001, *et seq.* (D.I. 1).

2. Shortly thereafter, defendant Mutual of Omaha Insurance Company moved to dismiss the Complaint on the grounds that the causes of action set forth therein are pre-empted by ERISA (D.I. 4). Mutual of Omaha's motion recognized that the Court could grant leave to the plaintiff to file an amended complaint to state a claim under ERISA.

3. Plaintiff searched for an attorney with experience in

litigating ERISA matters. Unfortunately, it took plaintiff some time to find suitable new counsel. On December 14, 2005, present counsel and plaintiff's former counsel filed a stipulation of substitution of counsel (D.I. 12).

4. Plaintiff's counsel has prepared a draft stipulation to permit plaintiff to file an amended complaint to state a claim under ERISA and sent it to defendants' counsel for review and comment. If the plaintiff and the defendants are unable to agree on a stipulation to file an amended complaint, plaintiff's counsel will immediately file a motion for leave to amend her complaint to state a claim under ERISA.

5. Plaintiff fully intends to pursue this case to disposition in a manner consistent with the rules and scheduling orders of this Court and respectfully requests that the case not be dismissed for failure to prosecute.

FERRY, JOSEPH & PEARCE, P.A.

/s/Rick S. Miller  
Rick S. Miller (#3418)  
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Attorney for Plaintiff

Dated: December 14, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Plaintiff's Response to Court's Order to Show Cause were served on December 14, 2005 upon the following persons in the indicated manner:

**By hand:**

Thomas S. Neuberger, Esquire  
Stephen J. Neuberger, Esquire  
The Neuberger Firm, P.A.  
Two East Seventh Street, Suite 302  
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Karen Lee Turner, Esquire  
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**By first class mail:**

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/s/Rick S. Miller  
Rick S. Miller (#3418)